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Part 1

REFORMULATION OF CEDAR BLUFF UNIT

JULY 18, 1989.—Ordered to be printed

Mr. JONES, of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 1031]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries to whom was referred the bill (H.R. 1031) to authorize the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, to provide for the amendment of water service and repayment contracts, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Add the following sentence at the end of section 3(b):

> If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

PURPOSE OF THE LEGISLATION

The purpose of this legislation is to authorize the Secretary of the Interior to sell certain rights in a Federal irrigation reservoir and to transfer fish hatchery facilities to the State of Kansas.

BACKGROUND AND NEED

H.R. 1031 would authorize the Secretary of the Interior to sell certain rights in a Federal irrigation reservoir and fish hatchery to the State of Kansas for the sum of $365,424, plus the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the dam and reservoir.

H563-9

The reservoir, which began operating in 1963, has had insufficient water for irrigation purposes since 1978, and has not been used for that purpose since then. The reserovir does, however, provide habitat for fish and wildlife; it serves an important flood control function; and it contains sufficient water for recreational use.

Section 3(b) of the bill would transfer the U.S. Fish and Wildlife Service fish hatchery at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. The hatchery was closed by the Fish and Wildlife Service in 1983, and is currently operated by the State as a goose rearing facility.

LEGISLATIVE BACKGROUND

H.R. 1031 was introduced on February 21, 1989, by Mr. Roberts and was jointly referred to the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs.

SUBCOMMITTEE ACTION

Given the non-controversial nature of the bill, no hearing was held on H.R. 1031. The Subcommittee on Fisheries and Wildlife Conservation and the Environment met to mark up the bill on June 13, 1989. The Subcommittee approved an amendment to section 3(b), to ensure that the fish hatchery will be retained by the State of Kansas, and used for fish, wildlife, and related purposes. Under the amendment, title to the hatchery would revert to the United States if the hatchery is sold or used for other purposes. H.R. 1031, as amended, was approved by voice vote and reported to the full Committee.

FULL COMMITTEE ACTION

The Committee on Merchant Marine and Fisheries met on June 21, 1989 to consider H.R. 1031, as amended and reported from the Subcommittee on Fisheries and Wildlife Conservation and the Environment. The Committee approved the bill, as amended, by voice vote, and ordered it reported to the House of Representatives.

SECTION-BY-SECTION ANALYSIS

Section 1 would authorize the Secretary of the Interior to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program to create a designated operating pool for fish, wildlife, and recreation purposes, for groundwater recharge for environmental, domestic, municipal, industrial, and irrigation uses, and a joint-use pool for flood control, water sales, and other purposes.

Section 2 would authorize the Secretary to enter into a contract with the State of Kansas for the sale, use, and control of the reservoirs.

Section 3(a) would authorize the Secretary to enter into a contract with the State of Kansas to accept payment from the State as full satisfaction of the reimbursable costs associated with irrigation of the Cedar Bluff Unit.

Section 3(b) would authorize the Secretary to transfer the United States Fish and Wildlife Service fish hatchery at Cedar Bluff Dam and the related water rights to the State of Kansas for its use and

operation for fish, wildlife, and related purposes. Section 3(b) would also require that title revert to the United States if the fish hatchery was used for purposes not authorized under the bill.

Section 4 would authorize the Secretary to transfer title to property associated with the Cedar Bluff Irrigation District headquarters.

Section 5 would authorize the Secretary to implement the Memorandum of Understanding between the Bureau of Reclamation, the Fish and Wildlife Service, the State of Kansas, and the Cedar Bluff Irrigation District dated December 17, 1987.

COMPLIANCE WITH CLAUSE 7, RULE XIII

In accordance with paragraph (d) of this clause, the provisions of this clause do not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office has been prepared and is included in this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1031 would not have an inflationary impact upon the national economy.

COMPLIANCE WITH CLAUSE 2 (l) (3) OF RULE XI

Pursuant to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives:

(A) No oversight hearings were held on the subject of this legislation by the Merchant Marine and Fisheries Committee.

(B) The requirements of section 308(a) of the Congressional Budget act of 1974 are not applicable to this legislation.

(C) The Committee on Merchant Marine and Fisheries has received no report from the Committee on Government Operations of oversight findings and recommendations arrived at pursuant to clause 4(c)(2) of rule X of the Rules of the House of Representatives.

(D) The Director of the Congressional Budget Office has furnished the Committee with an estimate and comparison of cost of H.R. 1031 pursuant to section 403 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 27, 1989.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1031, a bill to authorize the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, to provide for the amendment of water service and repayment con-

tracts. This bill was ordered reported by the House Committee on Merchant Marine and Fisheries on June 21, 1989.

We estimate that enactment of H.R. 1031 will result in additional receipts to the federal government totaling $365,424 in 1990 and about $15,000 a year in subsequent years.

Bill purpose: H.R. 1031 would authorize the Department of the Interior (DOI) to reallocate water in the Cedar Bluff reservoir from irrigation to other project purposes and would allow the State of Kansas to purchase the right to use and control water in the reservoir for specified purposes. The bill would also relieve the Cedar Bluff irrigation district of its obligation to repay certain costs in exchange for payments to the U.S. Government from the State of Kansas. Finally, H.R. 1031 would authorize DOI to transfer a fish hatchery and other irrigation facilities to the State of Kansas.

Background: As originally designed, the Cedar Bluff reservoir was constructed to provide irrigation, flood control, municipal water supply and fish, wildlife, and recreation benefits. Because of insufficient supplies of water to the reservoir over the past 11 years, however, no water has been provided for irrigation purposes and the irrigation district (which is no longer in operation) has been unable to pay $621,078 in obligations to the U.S. Government. The repayment obligation—which would have required the district to repay its debt in equal annual installments through the year 2015—has been deferred each year since 1978. The Bureau of Reclamation expects to continue deferring this obligation indefinitely.

Estimated budget impact: H.R. 1031 would forgive the water district's repayment obligation in exchange for payments from the State of Kansas totaling $365,424, plus an agreement from the State to pay a portion of the reservior's operation, maintenance, and replacement costs totaling approximately $15,000 annually. Because the Federal Government is unlikely to collect repayments on the original obligation, these payments by the State would result in additional receipts to the Federal Government.

We do not expect other provisions of the bill to significantly affect the Federal budget.

Except for the payment of $365,424 to the Federal Government by the State of Kansas, we do not expect enactment of H.R. 1031 to affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

CHANGES IN EXISTING LAW

This bill makes no changes in existing law.

DEPARTMENTAL REPORTS

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 25, 1989.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Represenatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on H.R. 1031, "To authorize the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, to provide for the amendment of water service and repayment contracts."

We do not oppose enactment of H.R. 1031, but suggest four clarifying amendments.

The Cedar Bluff Unit of the Pick-Sloan Missouri Basin Project, Kansas, was authorized by the Flood Control Act of 1944 to provide flood control and to store intermittent flows of the Smoky Hill River for irrigation, municipal, fish and wildlife, and recreation purposes. Construction of the Unit was begun in April 1949, and the Unit was completed in July 1963. The facility is operated and maintained by the Bureau of Reclamation (the Bureau) in coordination with others in the Kansas River Basin.

H.R. 1031 would authorize the Secretary of the Interior to contract with the State of Kansas for the sale of certain rights in the Cedar Bluff Reservoir for the sum of $365,424, plus the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the dam and reservoir. This sum would be in full satisfaction of the reimbursable costs associated with Cedar Bluff's irrigation facilities, including the Cedar Bluff Irrigation District's (the District's) obligations under the repayment contract.

H.R. 1031 would also provide for the implementation of a memorandum of understanding between the Bureau, the Fish and Wildlife Service (the Service), the District, and the State of Kansas, to reformulate the Cedar Bluff Unit. This reformulation would consist of reallocating the capacity of the Cedar Bluff Reservoir to provide for fish, wildlife, recreation, flood control, and other uses for the benefit of all the users of the reservoir.

After this reformulation takes place, any revenues that are received from the sale of water from the reservoir in excess of operating expenses would go to the United States to help defray the cost of the project.

In addition, the Secretary would be given the authority to transfer the fish hatchery, and the related water rights, to the State for fish, wildlife, and related purposes. The Secretary would also be permitted to transfer the property connected with the District headquarters to the District, contingent upon the District's agreement to close down the irrigation system at no cost to the United States. After this transfer, the owners of the transferred interests, and any subsequent transferees, would be required to indemnify the United States against all liability with respect to all interests associated with the District headquarters. Finally, the Secretary would be given the authority to take all other actions consistent with the memorandum of understanding discussed above.

The Cedar Bluff Unit consists of the dam and reservoir, the irrigation distribution and drainage system, a fish hatchery built by the Service, and fish, wildlife and recreation facilities built by the State of Kansas.

The Cedar Bluff Unit provides irrigation service to 6,800 acres of land in the District, and municipal water to the city of Russell, KS. In addition, the Service holds water rights to supply water for its fish hatchery.

The District executed a repayment contract with the United States on December 3, 1959, for repayment of $730,680. As of September 30, 1986, the District has repaid $109,602, leaving an unpaid balance of $621,078.

Since the completion of the Cedar Bluff Unit, there has been a severe depletion of the water supply into the reservoir. This water supply depletion, which is considered by the Bureau to be irreversible, is due to extensive soil and water conservation measures such as ponds on farms, and cropping practices such as contour plowing, as well as extensive ground-water development upstream from the project storage reservoir.

The District has received no irrigation releases since the 1978 irrigation season. As a consequence, the District has not realized adequate revenues to fulfill its contractual repayment obligations, and these obligations have had to be continuously deferred. The District is no longer in operation, and the fish hatchery is currently being operated by the State as a goose rearing facility.

We do not object to the passage of this legislation. This legislation would allow the Department to recover a substantial portion of its investment in this project. Without this legislation, repayment of the debt owed by the District could be deferred indefinitely, and the Federal Government may never receive repayment of its investment. Furthermore, the reformulation plan that is included in the memorandum of understanding agreed to by all the parties involved would provide for maximum utilization of the limited water resources that are currently associated with the Cedar Bluff Unit.

While we do not oppose passage of this legislation, we would suggest clarifying amendments to four provisions of H.R. 1031.

First, section 3(a) should clarify that the Reclamation Fund, and not the general fund of the U.S. Treasury, should be reimbursed for the costs of construction of the Cedar Bluff Unit. Currently, the last sentence in section 3(a) (lines 6–10 on page 3) reads:

> After the reformulation of the Cedar Bluff Unit authorized by this Act, any revenues in excess of operating expenses received from the sale of water at the Cedar Bluff Unit shall be allocated to pay the United States for the cost of the project.

This section could be interpreted to require that the revenues received by the United States in excess of operating expenses would go into the U.S. Treasury as general revenues, rather than the Reclamation Fund. The Federal funds expended to complete the irrigation and drainage system came from the Reclamation Fund, and not the general fund. Therefore, to clarify this fact, we would rec-

ommend that the last line of section 3(a) be amended to read as follows:

> After the reformulation of the Cedar Bluff Unit authorized by this Act, all net revenues received by the United States from the sale of water at the Cedar Bluff Unit shall be credited to the Reclamation Fund.

Second, we would suggest that on line 3, page 3, the word "the" after the phrase "satisfaction of" be deleted, and replaced with the world "all." This line would then read, ". . . satisfaction of all reimbursable costs associated with irrigation. . . ." This change would clarify the intent of the legislation that all of the reimbursable costs associated with irrigation and the District's financial liability for this project would be extinguished.

Third, we would recommend that section 3 be amended by adding the following sentence at the end of subsection (b):

> If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

This amendment would ensure that the property transferred by this subsection would be used for the purposes intended by this legislation. Furthermore, it would make H.R. 1031 consistent with the intent of the memorandum of understanding referred to in section 1 of the bill.

Finally, section 4 of the bill would protect the United States from liability associated with the District headquarters after transfer. However, the United States may still be liable for the other facilities transferred under the provisions of the bill. We do not believe that this was the intended result of this legislation.

In order to rectify this problem, we urge the Committee to amend H.R. 1031 to protect the United States from liability associated with all of the lands and facilities that would be transferred by this bill. Specifically, the last sentence of section 4 should be deleted, and a new section 5 should be added, which would read as follows:

> The transferees of any interests conveyed pursuant to this Act shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DOYLE G. FREDERICK,
Acting Assistant Secretary.

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